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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,624	09/28/2001	Joan Clayton	1284-001	2281
23485	7590	03/19/2004	EXAMINER	
JINAN GLASGOW P O BOX 28539 RALEIGH, NC 276118539			BROWN, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3764	5
DATE MAILED: 03/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/682,624	Applicant(s) Joan Clayton
Examiner Michael Brown	Group Art Unit 3764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 1/12/04

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-19 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-19 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6, 9-11 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell in view of Russo.

Campbell discloses in figures 1-2 an abdominal tube band, substantially as claimed. However, the issue is whether the opening of the pocket is away from the patient's skin. Russo teaches in figure 1 an abdominal tube band comprising a pocket 10 that opens away from the patient's skin. The pocket can be located on other places beside the stoma (fig. 8). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the pocket disclosed by Campbell could be fabricated to open away from the skin of the user as taught by Russo to prevent any fluids from reaching the patient's skin.

Claims 3-5, 7-8 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Helmer.

Helmer teaches in figures 1-2 an abdominal tube band comprising a fabric band 20 that is made of a breathable material (cotton), cotton, canvas or knitted (col. 11, lines 45-50). The pocket is made of a waterproof, water resistant material (col. 11, lines 64-

66), ties (col. 11, lines 59-61) that can be used to hold the rectangular fabric around the user's waist. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the fabric band disclosed by Campbell and taught by Russo could be fabricated of a breathable material to allow air and sweat to pass through the fabric. The cotton, canvas and knitted material are durable and comfortable to the wearer. The pocket being waterproof would prevent fluids from reaching the medical tubing inside of the pocket. The ties could be substituted for the hook and loop fasteners. The coating inside of the pocket would prevent fluids from passing through the pocket. The polyethylene is a specific plastic that would prevent fluids from passing through the pocket. The decoration or printed material could be used to enhance or display logos or words on the band. The plastic material of the pocket would provide a liner that is synthetic.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown  
March 17, 2004



MICHAEL A. BROWN  
PRIMARY EXAMINER